

99TH CONGRESS  
2D SESSION

# H. CON. RES. 305

To make technical corrections in the enrollment of the bill H.R. 3128.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1986

Mr. HAYES submitted the following concurrent resolution; which was considered  
and agreed to

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## CONCURRENT RESOLUTION

To make technical corrections in the enrollment of the bill  
H.R. 3128.

1       *Resolved by the House of Representatives (the Senate*  
2 *concurring)*, That, in the enrollment of the bill (H.R. 3128)  
3 to make changes in spending and revenue provisions for pur-  
4 poses of deficit reduction and program improvement, consist-  
5 ent with the budget process, the Clerk of the House of Rep-  
6 resentatives shall make the following corrections:

7           (1) SECTION 11001.—In section 11001 of the  
8 bill, strike out “1985” and insert in lieu thereof  
9 “1986”.

1           (2) SECTION 11002(c).—In section 11002(c) of  
2 the bill, strike out “Act” and insertion lieu thereof  
3 “title”.

4           (3) SECTION 11004.—In section 11004 of the  
5 bill—

6                   (A) in section 4001(a)(2)(B) of the Employee  
7 Retirement Income Security Act of 1974 (herein-  
8 after in this resolution referred to as “ERISA”),  
9 as proposed to be amended, strike out “affiliated  
10 group” and all that follows and insert in lieu  
11 thereof “controlled group, and”;

12                   (B) in section 4001(a)(13)(A) of ERISA, as  
13 proposed to be added, insert “, in connection with  
14 such plan,” after “responsible”;

15                   (C) in section 4001(a)(14)(B) of ERISA, as  
16 proposed to be added, strike out “section 414(c)”  
17 and insert in lieu thereof “subsections (b) and (c)  
18 of section 414”;

19                   (D) in section 4001(a)(15) of ERISA, as pro-  
20 posed to be added, strike out “, except as other-  
21 wise specifically provided in this title,”;

22                   (E) in section 4001(a)(17)(B) of ERISA, as  
23 proposed to be added, strike out “as of such date”  
24 and insert in lieu thereof “(as of such date)”;

1 (F) in section 4001(a)(18) of ERISA, as pro-  
 2 posed to be added, strike out “of” the fourth  
 3 place it appears in subparagraph (A) and insert in  
 4 lieu thereof “to”, and strike out “as of such date”  
 5 in subparagraph (B) and insert in lieu thereof “(as  
 6 of such date)”; and

7 (G) in section 4001(a)(19) of ERISA, as pro-  
 8 posed to be added, strike out “of” the fifth place  
 9 it appears in subparagraph (A) and insert in lieu  
 10 thereof “to”, and insert “required to be” after  
 11 “are” in subparagraph (B).

12 (4) SECTION 11004(b).—In section 11004(b) of  
 13 the bill—

14 (A) strike out “paragraphs” and insert in lieu  
 15 thereof “paragraph”; and

16 (B) strike out paragraphs (2) and (3) of sec-  
 17 tion 4001(b) of ERISA, as proposed to be added,  
 18 and insert in lieu thereof the following:

19 “(2) For purposes of subtitle E—

20 “(A) except as otherwise provided in subtitle E,  
 21 contributions or other payments shall be considered  
 22 made under a plan for a plan year if they are made  
 23 within the period prescribed under section 412(c)(10) of  
 24 the Internal Revenue Code of 1954 (determined, in the

1 case of a terminated plan, as if the plan had continued  
2 beyond the termination date), and

3 “(B) the term ‘Secretary of the Treasury’ means  
4 the Secretary of the Treasury or such Secretary’s dele-  
5 gate.”.

6 (5) SECTION 11005(c).—In section 11005(c)—

7 (A) redesignate paragraphs (9) and (10) as  
8 paragraphs (10) and (11), respectively;

9 (B) insert after paragraph (8) the following  
10 new paragraph (9):

11 “(9) Subsection (f)(4)(C) of section 4022A (29  
12 U.S.C. 1322a(f)(4)(C)) is amended by striking out ‘con-  
13 current’ and inserting in lieu thereof ‘joint’.”.

14 and

15 (C) Insert after paragraph (11) (as redesign-  
16 nated) the following new paragraph (12):

17 “(12) Subsection (g)(4)(D) of section 4022A (29  
18 U.S.C. 1322a(g)(4)(D)) is amended by striking out  
19 ‘concurrent’ and inserting in lieu thereof ‘joint’.”.

20 (6) SECTION 11005.—In section 11005 of the  
21 bill, add at the end the following new subsection:

22 “(e) TRANSITIONAL RULE.—

23 “(1) NOTICE OF PREMIUM INCREASE.—Not later  
24 than 30 days after the date of the enactment of this  
25 Act, the Pension Benefit Guaranty Corporation shall

1 send a notice to the plan administrator of each single-  
2 employer plan affected by the premium increase estab-  
3 lished by the amendment made by subsection (a)(1).  
4 Such notice shall describe such increase and the re-  
5 quirements of this subsection.

6 “(2) DUE DATE FOR UNPAID PREMIUMS.—With  
7 respect to any plan year beginning during the period  
8 beginning on January 1, 1986, and ending 30 days  
9 after the date of the enactment of this Act, any unpaid  
10 amount of such premium increase shall be due and  
11 payable no later than the earlier of 60 days after the  
12 date of the enactment of this Act or 30 days after the  
13 date on which the notice required by paragraph (1) is  
14 sent, except that in no event shall the amount of the  
15 premium increase established under the amendment  
16 made by subsection (a)(1) be due and payable for a  
17 plan year earlier than the date on which premiums for  
18 the plan would have been due for such plan year had  
19 this Act not been enacted.

20 “(3) ENFORCEMENT.—For purposes of enforce-  
21 ment, the requirements of paragraphs (1) and (2) shall  
22 be considered to be requirements of sections 4006 and  
23 4007 of the Employee Retirement Income Security  
24 Act of 1974 (29 U.S.C. 1306 and 1307).”.

1           (7) SECTION 11006(a).—In section 11006(a) of  
2       the bill, in section 204(h) of ERISA, as proposed to be  
3       added—

4           (A) strike out “on or after the date of the en-  
5       actment of the Single-Employer Pension Plan  
6       Amendments Act of 1985”; and

7           (B) in paragraph (2), strike out “under the  
8       plan who is a beneficiary of a deceased participant  
9       or”.

10          (8) SECTION 11006(b).—In section 11006(b) of  
11       the bill, strike out “the date described in section  
12       11019(a)” and insert in lieu thereof “January 1, 1986,  
13       except that, in the case of plan amendments adopted  
14       on or after January 1, 1986, and on or before the date  
15       of the enactment of this Act, the requirements of sec-  
16       tion 204(h) of the Employee Retirement Income Secu-  
17       rity Act of 1974 (as added by this section) shall be  
18       treated as met if the written notice required under such  
19       section 204(h) is provided before 60 days after the date  
20       of the enactment of this Act”.

21          (9) SECTION 11007(a).—In section 11007(a) of  
22       the bill, in section 4041(a)(2) of ERISA, as proposed  
23       to be amended, strike out “plan termination under sub-  
24       section (b) or (c)” and insert in lieu thereof “standard  
25       termination under subsection (b) or a distress termina-

1       tion under subsection (c)", and insert "of" after  
2       "case".

3           (10) SECTION 11008(a).—In section 11008(a) of  
4       the bill—

5           (A) in section 4041(b)(2)(A) of ERISA, as  
6       proposed to be amended, strike out "the termina-  
7       tion date proposed in the notice" and insert in  
8       lieu thereof "the date on which the notice of  
9       intent to terminate is", and in clause (iii), strike  
10      out "is" and insert in lieu thereof "are";

11          (B) in section 4041(b)(2)(B) of ERISA, as  
12      proposed to be amended, strike out "At the time"  
13      and insert in lieu thereof "No later than the date  
14      on which", and in clause (i), strike out ", ex-  
15      pressed in terms of the normal form of benefits  
16      under the plan," and insert in lieu thereof "and  
17      the benefit form on the basis of which such  
18      amount is determined";

19          (C) in section 4041(b)(2)(C)(i) of ERISA, as  
20      proposed to be amended, strike out "provide the  
21      plan administrator with a notice of noncompli-  
22      ance" and insert in lieu thereof "issue a notice of  
23      noncompliance to the plan administrator", and in  
24      subclause (I), strike out "the requirements of sub-  
25      section (a)(2) and subparagraphs (A) and (B)

1           have” and insert in lieu thereof “any requirement  
2           of subsection (a)(2) or subparagraph (A) or (B)  
3           has”;

4           (D) in section 4041(b)(3)(A) of ERISA, as  
5           proposed to be amended, strike out “the termina-  
6           tion of the plan” and insert in lieu thereof “the  
7           standard termination of the plan under this sub-  
8           section”, and in clauses (i) and (ii), strike out “are  
9           allocated” each place it appears and insert in lieu  
10          thereof “are required to be allocated”; and

11          (E) in section 4041(b)(3)(B) of ERISA, as  
12          proposed to be amended, strike out “the termina-  
13          tion of the plan” and insert in lieu thereof “the  
14          standard termination of the plan under this sub-  
15          section”, and strike out “are allocated” and insert  
16          in lieu thereof “are required to be allocated”.

17          (11) SECTION 11008(b).—In section 11008 of the  
18          bill, strike out subsection (b) and insert in lieu thereof  
19          the following:

20          “(b) CONFORMING AMENDMENT.—Section 4041(f) (29  
21          U.S.C. 1341(f)) is amended to read as follows:

22          “ (f) LIMITATION ON THE CONVERSION OF A DE-  
23          FINED BENEFIT PLAN TO A DEFINED CONTRIBUTION  
24          PLAN.—The adoption of an amendment to a plan which  
25          causes the plan to become a plan described in section



1 4021(b)(1) constitutes a termination of the plan. Such an  
 2 amendment may take effect only after the plan satisfies the  
 3 requirements for standard termination under subsection (b) or  
 4 distress termination under subsection (c).’ ”.

5 (12) SECTION 11008(c).—In section 11008(c) of  
 6 the bill, strike out “May 1, 1986,” and insert in lieu  
 7 thereof “120 days after the date of the enactment of  
 8 this Act,”.

9 (13) SECTION 11008(d).—In section 11008(d) of  
 10 the bill, strike out paragraphs (1) and (2) and insert in  
 11 lieu thereof the following paragraphs (1) and (2):

12 “(1) REQUIREMENTS TO BE MET BEFORE FINAL  
 13 DISTRIBUTION OF ASSETS.—In the case of the termi-  
 14 nation of a single-employer plan described in paragraph  
 15 (2) with respect to which the amount payable to the  
 16 employer pursuant to section 4044(d) exceeds  
 17 \$1,000,000 (determined as of the proposed date of final  
 18 distribution of assets), the final distribution of assets  
 19 pursuant to such termination may not occur unless the  
 20 Pension Benefit Guaranty Corporation—

21 “(A) determines that the assets of the plan  
 22 are sufficient for benefit commitments (within the  
 23 meaning of section 4041(d)(1) of the Employee  
 24 Retirement Income Security Act of 1974 (as  
 25 amended by section 11007)) under the plan, and

1           “(B) issues to the plan administrator a writ-  
2           ten notice setting forth the determination de-  
3           scribed in subparagraph (A).

4           “(2) PLANS TO WHICH SUBSECTION APPLIES.—  
5           A single-employer plan is described in this paragraph  
6           if—

7           “(A) the plan administrator has filed a notice  
8           of intent to terminate with the Pension Benefit  
9           Guaranty Corporation, and—

10           “(i) the filing was made before January  
11           1, 1986, and the Corporation has not issued  
12           a notice of sufficiency for such plan before  
13           the date of the enactment of this Act, or

14           “(ii) the filing is made on or after Janu-  
15           ary 1, 1986, and before 60 days after the  
16           date of the enactment of this Act and the  
17           Corporation has not issued a notice of suffi-  
18           ciency for such plan before the date of the  
19           enactment of this Act, and

20           “(B) of the persons who are (as of the termi-  
21           nation date) participants in the plan, the lesser of  
22           10 percent or 200 have filed complaints with the  
23           Corporation regarding such termination—

1           “(i) in the case of plans described in  
2           subparagraph (A)(i), before 15 days after the  
3           date of the enactment of this Act, or

4           “(ii) in any other case, before the later  
5           of 15 days after the date of the enactment of  
6           this Act or 45 days after the date of the  
7           filing of such notice.”.

8           (14)   SECTION   11008(d)(4)(A).—In   section  
9           11008(d)(4)(A) of the bill, strike out “paragraph (1)(C)”  
10          and insert in lieu thereof “paragraph (1)(B)”.

11          (15)   SECTION   11008(d)(4)(B).—In   section  
12          11008(d)(4)(B) of the bill, strike out “The preceding  
13          provisions of this subsection shall not apply (except in  
14          the case of an acquisition, takeover, or leveraged  
15          buyout)” and insert in lieu thereof “Except in the case  
16          of an acquisition, takeover, or leveraged buyout, the  
17          preceding provisions of this subsection shall not apply”,  
18          and strike out “it” and insert in lieu thereof “the con-  
19          tributing sponsor”.

20          (16)   SECTION   11009(a).—In section 11009(a) of  
21          the bill—

22                 (A) strike out “title)” and insert in lieu  
23                 thereof “Act”;

24                 (B) in section 4041(c)(2)(A) of ERISA, as  
25                 proposed to be amended, strike out “the termina-

1           tion date proposed in the notice of intent to termi-  
2           nate provided” and insert in lieu thereof “the date  
3           on which the notice of intent to terminate is pro-  
4           vided”, and strike out “is” in clause (iv) and  
5           insert in lieu thereof “are”;

6           (C) in section 4041(c)(2)(B) of ERISA, as  
7           proposed to be amended, insert “(as of the termi-  
8           nation date)” after “each person who is”, strike  
9           out “it” in clause (i)(I) and insert in lieu thereof  
10          “such person”, strike out “it” in clause (ii)(I) and  
11          insert in lieu thereof “such person”, and insert  
12          “to such person” after “unreasonably burden-  
13          some” in clause (iii)(II);

14          (D) in section 4041(c)(2)(C) of ERISA, as  
15          proposed to be amended, strike out the last sen-  
16          tence;

17          (E) in section 4041(c)(3)(A) of ERISA, as  
18          proposed to be amended, strike out “whether”  
19          each place it appears in clauses (i) and (ii) and  
20          insert in lieu thereof “that”;

21          (F) in section 4041(c)(3)(B) of ERISA, as  
22          proposed to be amended—

23                 (i) strike out “in the manner described  
24                 in subsection (b)(3), and” in clause (i) and  
25                 insert in lieu thereof “, and make certifica-

1           tion to the corporation with respect to such  
2           distribution, in the manner described in sub-  
3           section (b)(3), and shall”;

4           (ii) strike out “that the plan is not suffi-  
5           cient for benefit commitments (or” in clause  
6           (ii), strike out “it)” in clause (ii) and insert in  
7           lieu thereof “it”, strike out “whether” in  
8           clause (ii) and insert in lieu thereof “that”,  
9           insert after “subsection (b)(3),” in clause  
10          (ii)(I) the following: “make certification to  
11          the corporation that the distribution has oc-  
12          curred, and take such actions as may be ap-  
13          propriate to carry out the termination of the  
14          plan,”; and

15          (iii) strike out “that the plan is not suf-  
16          ficient for guaranteed benefits (or” in clause  
17          (iii), strike out “it)” in clause (iii) and insert  
18          in lieu thereof “it”, and strike out “whether”  
19          in clause (iii) and insert in lieu thereof  
20          “that”;

21          (G) in section 4041(c)(3)(C) of ERISA, as  
22          proposed to be amended, strike out clauses (i) and  
23          (ii) and insert in lieu thereof the following:

24                 “(i) FINDING WITH RESPECT TO BENE-  
25                 FIT COMMITMENTS WHICH ARE NOT GUAR-

1 ANTEED BENEFITS.—If, after the plan ad-  
2 ministrator has begun to terminate the plan  
3 as authorized under subparagraph (B)(i), the  
4 plan administrator finds that the plan is  
5 unable, or will be unable, to pay benefit com-  
6 mitments which are not benefits guaranteed  
7 by the corporation under section 4022, the  
8 plan administrator shall notify the corpora-  
9 tion of such finding as soon as practicable  
10 thereafter. If the corporation concurs in the  
11 finding of the plan administrator (or the cor-  
12 poration itself makes such a finding) the cor-  
13 poration shall take the actions set forth in  
14 subparagraph (B)(ii)(II) relating to the trust  
15 established for purposes of section 4049.

16 “(ii) FINDING WITH RESPECT TO  
17 GUARANTEED BENEFITS.—If, after the plan  
18 administrator has begun to terminate the  
19 plan as authorized by subparagraph (B)(i) or  
20 (ii), the plan administrator finds that the plan  
21 is unable, or will be unable, to pay all bene-  
22 fits under the plan which are guaranteed by  
23 the corporation under section 4022, the plan  
24 administrator shall notify the corporation of  
25 such finding as soon as practicable thereaf-

1           ter. If the corporation concurs in the finding  
 2           of the plan administrator (or the corporation  
 3           itself makes such a finding), the corporation  
 4           shall institute appropriate proceedings under  
 5           section 4042.”.

6           and

7           (H) in section 4041(c)(3) of ERISA, as pro-  
 8           posed to be amended, strike out subparagraph (D)  
 9           and insert in lieu thereof the following:

10          “(D) ADMINISTRATION OF THE PLAN DURING IN-  
 11          TERIM PERIOD.—

12           “(i) IN GENERAL.—The plan administrator  
 13          shall—

14           “(I) meet the requirements of clause (ii)  
 15          for the period commencing on the date on  
 16          which the plan administrator provides a  
 17          notice of distress termination to the corpora-  
 18          tion under subsection (a)(2) and ending on  
 19          the date on which the plan administrator re-  
 20          ceives notification from the corporation of its  
 21          determinations under subparagraph (A), and

22           “(II) meet the requirements of clause  
 23          (ii) commencing on the date on which the  
 24          plan administrator or the corporation makes  
 25          a finding under subparagraph (C)(ii).

1           “(ii) REQUIREMENTS.—The requirements of  
2       this clause are met by the plan administrator if  
3       the plan administrator—

4           “(I) refrains from distributing assets or  
5       taking any other actions to carry out the  
6       proposed termination of this subsection,

7           “(II) pays benefits attributable to em-  
8       ployer contributions, other than death bene-  
9       fits, only in the form of an annuity,

10          “(III) does not use plan assets to pur-  
11       chase irrevocable commitments to provide  
12       benefits from an insurer, and

13          “(IV) continues to pay all benefit com-  
14       mitments under the plan, but, commencing  
15       on the proposed termination date, limits the  
16       payment of benefits under the plan to those  
17       benefits which are guaranteed by the corpo-  
18       ration under section 4022 or to which assets  
19       are required to be allocated under section  
20       4044.

21       In the event the plan administrator is later deter-  
22       mined not to have met the requirements for dis-  
23       tress termination, any benefits which are not paid  
24       solely by reason of compliance with subclause  
25       (IV) shall be due and payable immediately (to-



1           gether with interest, at a reasonable rate, in ac-  
2           cordance with regulations of the corporation).”.

3           (17) SECTION 11009(b).—In section 11009(b) of  
4           the bill, strike out “Act” and insert in lieu thereof  
5           “title”.

6           (18) SECTION 11010(a)(1).—In section  
7           11010(a)(1) of the bill, strike out subparagraph (B) and  
8           insert in lieu thereof the following:

9                   “(B) by inserting at the beginning of the  
10           matter following paragraph (4) the following new  
11           sentence: ‘The corporation shall as soon as practi-  
12           cable institute proceedings under this section to  
13           terminate a single-employer plan whenever the  
14           corporation determines that the plan does not  
15           have assets available to pay benefits which are  
16           currently due under the terms of the plan.’.”.

17           (19) SECTION 11010(a)(2)(A).—In section  
18           11010(a)(2)(A) of the bill, strike out “court”.

19           (20) SECTION 11010(a)(2)(B).—In section  
20           11010(a)(2)(B) of the bill, strike out “it may,” and  
21           insert in lieu thereof “has determined”, strike out  
22           “court”, and strike out “(whether” and all that follows  
23           down through “shall,”.

1           (21) SECTION 11010(b).—In section 11010 of the  
2       bill, insert after subsection (a) the following new sub-  
3       section:

4       “(b) ESTABLISHMENT OF SECTION 4049 TRUST.—  
5       Section 4042 is further amended by adding at the end thereof  
6       the following new subsection:

7       “ ‘(i) In any case in which a plan is terminated under  
8       this section in a termination proceeding initiated by the cor-  
9       poration pursuant to subsection (a), the corporation shall es-  
10      tablish a separate trust in connection with the plan for pur-  
11      poses of section 4049, unless the corporation determines that  
12      all benefit commitments under the plan are benefits guaran-  
13      teed by the corporation under section 4022 or that there is no  
14      amount of unfunded benefit commitments under the plan.’ ”.

15           (22) SECTION 11011(a).—In section 11011(a) of  
16       the bill, strike out “(a) Liability” and all that follows  
17       down through “following:” and insert in lieu thereof  
18       the following:

19       “(a) LIABILITY FOR DISTRESS TERMINATIONS AND  
20       TERMINATIONS BY THE CORPORATION.—Section 4062 (29  
21       U.S.C. 1362) is amended—

22           “(1) by redesignating subsection (e) as subsection  
23       (f); and

1           “(2) by striking out so much as precedes subsec-  
2           tion (f) (as redesignated) and inserting in lieu thereof  
3           the following:”.

4           (23) SECTION 11011(a).—In section 11011(a) of  
5           the bill, in section 4062(a) of ERISA, as proposed to  
6           be amended, insert a comma after “corporation” in  
7           paragraph (1), insert “or section 4042(i),” after “or  
8           (iii)” in paragraph (2), and strike out “referred to in  
9           section 4042(d)(1)(B)” in paragraph (3) and insert in  
10          lieu thereof “appointed under subsection (b) or (c) of  
11          section 4042,”.

12          (24) SECTION 11011(a).—In section 11011(a) of  
13          the bill, strike out section 4026(b) of ERISA, as pro-  
14          posed to be amended, and insert in lieu thereof the fol-  
15          lowing:

16          “(b) LIABILITY TO THE CORPORATION.—

17                 “(1) AMOUNT OF LIABILITY.—

18                         “(A) IN GENERAL.—Except as provided in  
19                         subparagraph (B), the liability to the corporation  
20                         of a person described in subsection (a) shall con-  
21                         sist of the sum of—

22                                 “(i) the lesser of—

23   “(I) the total amount of unfunded  
24   guaranteed benefits (as of the termina-

1                   tion date) of all participants and benefi-  
2                   ciaries under the plan, or

3                   “(II) 30 percent of the collective  
4                   net worth of all persons described in  
5                   subsection (a),

6                   and

7                   “(i) the excess (if any) of—

8                   “(I) 75 percent of the amount de-  
9                   scribed in clause (i)(I), over

10                  “(II) the amount described in  
11                  clause (i)(II),

12                  together with interest (at a reasonable rate) calcu-  
13                  lated from the termination date in accordance  
14                  with regulations prescribed by the corporation.

15                  “(B) SPECIAL RULE IN CASE OF SUBSE-  
16                  QUENT INSUFFICIENCY.—For purposes of (sub-  
17                  paragraph (A), in any case described in section  
18                  4041(c)(3)(C)(ii), actuarial present values shall be  
19                  determined as of the date of the notice to the cor-  
20                  poration (or the finding by the corporation) de-  
21                  scribed in such section.

22                  “(2) PAYMENT OF LIABILITY.—

23                  “(A) IN GENERAL.—Except as provided in  
24                  subparagraph (B), the liability to the corporation  
25                  under this subsection shall be due and payable to

1           the corporation as of the termination date, in cash  
2           or securities acceptable to the corporation.

3           “(B) SPECIAL RULE.—Payment of the liabil-  
4           ity under paragraph (1)(A)(ii) shall be made under  
5           commercially reasonable terms prescribed by the  
6           corporation. The parties involved shall make a  
7           reasonable effort to reach agreement on such  
8           commercially reasonable terms. Any such terms  
9           prescribed by the corporation shall provide for de-  
10          ferral of 50 percent of any amount of liability oth-  
11          erwise payable for any year under this subpara-  
12          graph if a person subject to such liability demon-  
13          strates to the satisfaction of the corporation that  
14          no person subject to such liability has any individ-  
15          ual pre-tax profits for such person’s fiscal year  
16          ending during such year.

17          “(3) ALTERNATIVE ARRANGEMENTS.—The cor-  
18          poration and any person liable under this section may  
19          agree to alternative arrangements for the satisfaction  
20          of liability to the corporation under this subsection.”.

21          (25) SECTION 11011(A).—In section 11011(a) of  
22          the bill, strike out section 4062(c) of ERISA, as pro-  
23          posed to be amended, and insert in lieu thereof the fol-  
24          lowing:

25          “(c) LIABILITY TO SECTION 4049 TRUST.—

1           “(1) AMOUNT OF LIABILITY.—

2           “(A) IN GENERAL.—In any case in which  
3           there is an outstanding amount of benefit commit-  
4           ments under a plan terminated under section  
5           4041(c) or 4042, a person described in subsection  
6           (a) shall be subject to liability under this subsec-  
7           tion to the trust established under section  
8           4041(c)(3)(B)(ii) or (iii) or section 4042(i) in con-  
9           nection with the terminated plan. Except as pro-  
10          vided in subparagraph (B), the liability of such  
11          person under this subsection shall consist of the  
12          lesser of—

13                 “(i) 75 percent of the total outstanding  
14                 amount of benefit commitments under the  
15                 plan, or

16                 “(ii) 15 percent of the actuarial present  
17                 value (determined as of the termination date  
18                 on the basis of assumptions prescribed by the  
19                 corporation for purposes of section 4044) of  
20                 all benefit commitments under the plan.

21           “(B) SPECIAL RULE IN CASE OF SUBSE-  
22           QUENT INSUFFICIENCY.—For purposes of sub-  
23           paragraph (A)—

24                 “(i) PLANS INSUFFICIENT FOR GUAR-  
25                 ANTEED BENEFITS.—In any case described

1 in section 4041(c)(3)(C)(ii), actuarial present  
2 values shall be determined as of the date of  
3 the notice to the corporation (or the finding  
4 by the corporation) described in such section.

5 “(ii) PLANS SUFFICIENT FOR GUARAN-  
6 TEED BENEFITS BUT INSUFFICIENT FOR  
7 BENEFIT ENTITLEMENTS.—In any case de-  
8 scribed in section 4041(c)(3)(C)(i) but not de-  
9 scribed in section 4041(c)(3)(C)(ii), actuarial  
10 present values shall be determined as of the  
11 date on which the final distribution of assets  
12 is completed.

13 “(2) PAYMENT OF LIABILITY.—

14 “(A) GENERAL RULE.—Except as otherwise  
15 provided in this paragraph, payment of a person’s  
16 liability under this subsection shall be made for li-  
17 ability payment years under commercially reason-  
18 able terms prescribed by the fiduciary designated  
19 by the corporation pursuant to section  
20 4049(b)(1)(A). Such fiduciary and the liable per-  
21 sons assessed liability under this subsection shall  
22 make a reasonable effort to reach agreement on  
23 such commercially reasonable terms.

24 “(B) SPECIAL RULE FOR PLANS WITH LOW  
25 AMOUNTS OF LIABILITY.—In any case in which

1           the amount described in paragraph (1)(A) is less  
2           than \$100,000, the requirements of subparagraph  
3           (A) may be satisfied by payment of such liability  
4           over 10 liability payment years in equal annual  
5           installments (with interest at the rate determined  
6           under section 6621(b) of the Internal Revenue  
7           Code of 1954). The corporation may, by regula-  
8           tion, increase the dollar amount referred to in this  
9           subparagraph as it determines appropriate, taking  
10          into account reasonable administrative costs of  
11          trusts established under section 4041(c)(3)(B) (ii)  
12          or (iii) or section 4042(i).

13                 “(C) DEFERRAL OF PAYMENTS.—The terms  
14          for payment provided for under subparagraph (A)  
15          or (B) shall also provide for deferral of 75 percent  
16          of any amount of liability otherwise payable for  
17          any liability payment year if a person subject to  
18          such liability demonstrates to the satisfaction of  
19          the corporation that no person subject to such li-  
20          ability has any individual pre-tax profits for such  
21          person’s fiscal year ending during such year. The  
22          amount of liability so deferred is payable only  
23          after payment in full of any amount of liability  
24          under subsection (b) in connection with the termi-  
25          nation of the same plan which has been deferred



1           pursuant to terms provided for under subsection  
2           (b)(2)(B).”.

3           (26) SECTION 11011(a).—In section 11011(a) of  
4           the bill, in section 4062(d) of ERISA, as proposed to  
5           be amended, strike out “referred to in section  
6           4042(d)(1)(B)” and insert in lieu thereof “appointed  
7           under subsection (b) or (c) of section 4042” and in the  
8           matter following paragraph (3), insert “(at a reasonable  
9           rate) calculated from the termination date in accord-  
10          ance with regulations prescribed by the corporation”  
11          after “interest”.

12          (27) SECTION 11011(a).—In section 11011(a) of  
13          the bill, in section 4062(e)(3) of ERISA, as proposed  
14          to be amended, strike out “begins” and insert in lieu  
15          thereof “ends”.

16          (28) SECTION 11011(b).—In section 11011(b) of  
17          the bill, strike out “Subsection (e) of section 4062”  
18          and insert in lieu thereof “Subsection (f) of section  
19          4062 (as redesignated by subsection (a)(1))” and strike  
20          out “(e)” the second place it appears and insert in lieu  
21          thereof “(f)”.

22          (29) SECTION 11011(c)(2).—In section  
23          11011(c)(2) of the bill, in section 404(g)(4) of the Inter-  
24          nal Revenue Code of 1954, as proposed to be added,  
25          strike out “Any” and insert in lieu thereof “For pur-

1 poses of this subsection, any", and strike out "the date  
 2 described in section 11019(a) of the Single-Employer  
 3 Pension Plan Amendments Act of 1985" and insert in  
 4 lieu thereof "the date of the enactment of the Single-  
 5 Employer Pension Plan Amendments Act of 1986".

6 (30) SECTION 11011(c)(3).—In section  
 7 11011(c)(3) of the bill, strike out "the date described in  
 8 section 11019(a)" and insert in lieu thereof "January  
 9 1, 1986,".

10 (31) SECTION 11012(a).—In section 11012(a) of  
 11 the bill, in section 4049(a) of ERISA, as proposed to  
 12 be added, strike out the last sentence and insert in lieu  
 13 thereof the following:

14 "The trust shall be maintained for such period of time as is  
 15 necessary to receive all liability payments required to be  
 16 made to the trust under section 4062(c) with respect to the  
 17 terminated plan and to make all distributions required to be  
 18 made to participants and beneficiaries under this section with  
 19 respect to the terminated plan."

20 (32) SECTION 11012(a).—In section 11012(a) of  
 21 the bill, in section 4049 of ERISA, as proposed to be  
 22 added, strike out so much of subsection (b) as precedes  
 23 paragraph (2) and insert in lieu thereof the following:

24 "(b) DESIGNATION OF FIDUCIARY BY THE CORPORA-  
 25 TION.—

1           “(1) PURPOSES FOR DESIGNATION OF FIDUCI-  
2       ARY.—

3           “(A) COLLECTION OF LIABILITY.—The cor-  
4       poration shall designate a fiduciary (within the  
5       meaning of section 3(21)) to serve as trustee of  
6       the trust for purposes of conducting negotiations  
7       and assessing and collection liability pursuant to  
8       section 4062(c).

9           “(B) ADMINISTRATION OF TRUST.—

10          “(i) CORPORATION’S FUNCTIONS.—  
11       Except as provided in clause (ii), the corpo-  
12       ration shall serve as trustee of the trust for  
13       purposes of administering the trust, including  
14       making distributions from the trust to partici-  
15       pants and beneficiaries.

16          “(ii) DESIGNATION OF FIDUCIARY IF  
17       COST-EFFECTIVE.—If the corporation deter-  
18       mines that it would be cost-effective to do  
19       so, it may designate a fiduciary (within the  
20       meaning of section 3(21)), including the fidu-  
21       ciary designated under subparagraph (A), to  
22       perform the functions described in clause  
23       (i).”.

24          (33) SECTION 11012(a).—In section 11012(a) of  
25       the bill, in section 4049(c)(1)(A) of ERISA, as pro-

1 posed to be added, strike out “of” the second place it  
2 appears and insert in lieu thereof “to”.

3 (34) SECTION 11012(a).—In section 11012(a) of  
4 the bill, redesignate the second subsection (c) of section  
5 4049 of ERISA, as proposed to be added, as subsec-  
6 tion (d).

7 (35) SECTION 11012(b).—In section 11012(b) of  
8 the bill, in section 501(c)(24) of the Internal Revenue  
9 Code of 1954, as proposed to be added, strike out  
10 “1985” and insert in lieu thereof “1986”.

11 (36) SECTION 11012(c).—In section 11012(c) of  
12 the bill, insert “of such Code” after “section 402(a)”.

13 (37) SECTION 11012(d).—In section 11012(d) of  
14 the bill, strike out “incurred under” and insert in lieu  
15 thereof “otherwise payable as provided in”.

16 (38) SECTION 11013(b).—In section 11013(b) of  
17 the bill, strike out “the date described in section  
18 11019(a)” and insert in lieu thereof “January 1,  
19 1986”.

20 (39) SECTION 11014(a).—In section 11014(a) of  
21 the bill, in section 4070(a) of ERISA, as proposed to  
22 be added, strike out “A person” and insert in lieu  
23 thereof “Any person”, strike out “who is adversely”  
24 and insert in lieu thereof “is adversely”, strike out “an  
25 employee organization which represents” and insert in

1        lieu thereof “who is an employee organization repre-  
 2        senting”, and by inserting “so adversely affected” after  
 3        “beneficiary”.

4            (40)        SECTION        11014(b)(1).—In        section  
 5        11014(b)(1) of the bill—

6            (A) in section 4003(f)(1) of ERISA, as pro-  
 7        posed to be amended, strike out “who is adverse-  
 8        ly” and insert in lieu thereof “is adversely”,  
 9        strike out “and any employee organization which  
 10       represents” and insert in lieu thereof “, or who is  
 11       an employee organization representing”, and by  
 12       inserting “so adversely affected” after “benefici-  
 13       ary”; and

14            (B) in section 4003(f)(2)(B) of ERISA, as  
 15        proposed to be amended, insert “for the judicial  
 16       district” after “district court”.

17            (41)        SECTION        11014(b)(2).—In        section  
 18        11014(b)(2) of the bill, in section 4003(e)(6)(C) of  
 19        ERISA, as proposed to be amended, strike out “if  
 20       such date is later than the date described in clause (i)”.

21            (42)        SECTION        11015(a)(2)(A).—In        section  
 22        11015(a)(2)(A) of the bill—

23            (A) in section 412(f)(3)(C)(i) of the Internal  
 24        Revenue Code of 1954, as proposed to be added,  
 25        strike out “oustanding” in subclause (III) and

1 insert in lieu thereof “outstanding”, and strike out  
 2 “subsection (d)” in subclause (III) and insert in  
 3 lieu thereof “subsection (e)”; and

4 (B) in section 412(f)(3)(C)(ii) of such Code, as  
 5 proposed to be added, strike out “of” the fourth  
 6 place it appears and insert in lieu thereof “or”.

7 (43) SECTION 11015(a)(3).—In section  
 8 11015(a)(3) of the bill, strike out “the date described in  
 9 section 11019(a)” and insert in lieu thereof “the date  
 10 of the enactment of this Act”.

11 (44) SECTION 11016(a).—In section 11016(a) of  
 12 the bill—

13 (A) strike out paragraph (1);

14 (B) redesignate paragraphs (2) and (3) as  
 15 paragraphs (1) and (2), respectively; and

16 (C) strike out paragraph (4) and insert in lieu  
 17 thereof the following new paragraph:

18 “(3) RESTORATION OF PLANS.—Section 4047  
 19 (29 U.S.C. 1347) is amended—

20 “(A) in the first sentence, by inserting ‘under  
 21 section 4041 or 4042’ after ‘terminated’ each  
 22 place it appears; and

23 “(B) in the second sentence, by striking out  
 24 ‘section 4042’ and inserting in lieu thereof ‘sec-  
 25 tion 4041 or 4042’.”.

1 and

2 (D) redesignate paragraphs (5), (6), and (7)  
3 as paragraphs (4), (5), and (6), respectively;

4 (E) in paragraph (5)(A)(ii)(I) (as redesignat-  
5 ed), strike out “, to which section 4021 applies  
6 and”;

7 (F) in paragraph (5)(A)(iii)(I) (as redesignat-  
8 ed), insert a comma after “section” the second  
9 place it appears;

10 (G) Strike out paragraph (5)(A)(iii)(III) (as  
11 redesignated) and insert in lieu thereof the follow-  
12 ing:

13 “(III) in paragraph (3), by insert-  
14 ing ‘under section 4041(c) or 4042’  
15 after ‘terminates’ and by striking out  
16 ‘employer’ in subparagraph (C) and in-  
17 serting in lieu thereof ‘contributing  
18 sponsor’.”.

19 and

20 (H) in paragraph (5)(A)(iv)(II) (as redesignat-  
21 ed), strike out “and”;

22 (I) in paragraph (5)(A)(iv)(III) (as redesignat-  
23 ed), strike out the period and insert in lieu thereof  
24 “; and”;

1 (J) in paragraph (5)(A)(iv) (as redesignated),  
 2 add after subclause (III) the following;

3 “(IV) in paragraph (2), by striking  
 4 out ‘termination’ and inserting in lieu  
 5 thereof ‘plan terminated under section  
 6 4042’.”.

7 and

8 (K) in paragraph (5)(B) (as redesignated),  
 9 strike out clause (ii) and insert in lieu thereof the  
 10 following:

11 “(ii) Section 4064(b) (29 U.S.C.  
 12 1364(b)) is amended to read as follows:

13 “ ‘(b) The corporation shall determine the liability with  
 14 respect to each contributing sponsor and each member of its  
 15 controlled group in a manner consistent with section 4062,  
 16 except that—

17 “ ‘(1) the amount of the liability determined under  
 18 section 4062(b)(1) with respect to the entire plan—

19 “ ‘(A) shall be determined without regard to  
 20 clauses (i)(II) and (ii) of section 4062(b)(1)(A), and

21 “ ‘(B) shall be allocated to each controlled  
 22 group by multiplying such amount by a fraction—

23 “ ‘(i) the numerator of which is the  
 24 amount required to be contributed to the  
 25 plan for the last 5 plan years ending prior to



1 the termination date by persons in such con-  
2 trolled group as contributing sponsors, and

3 “ (ii) the denominator of which is the  
4 total amount required to be contributed to  
5 the plan for such last 5 plan years by all  
6 persons as contributing sponsors,

7 and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall  
8 be applied separately with respect to each such con-  
9 trolled group, and

10 “ (2) the amount of the liability determined under  
11 section 4062(c)(1) with respect to the entire plan shall  
12 be allocated to each controlled group by multiplying  
13 such amount by the fraction described in paragraph  
14 (1)(B) in connection with such controlled group.

15 The corporation may also determine the liability of each such  
16 contributing sponsor and member of its controlled group on  
17 any other equitable basis prescribed by the corporation in  
18 regulations.’ ”.

19 and

20 (L) in paragraph (5)(C) (as redesignated),  
21 strike out “any” the second place it appears in  
22 clause (ii), and strike out “comprises with others”  
23 in clause (iii) and insert in lieu thereof “(alone or  
24 together with members of such contributing spon-  
25 sor’s controlled group) constitutes”;

1 (M) in subparagraph (B)(ii) of paragraph (6)  
 2 (as redesignated), strike out “section  
 3 4062(b)(1)(A)” and insert in lieu thereof “section  
 4 4062(b)(1)(A)(i)”; and

5 (N) in subparagraph (B)(vi) of paragraph (6)  
 6 (as redesignated), in section 4068(c)(1) of ERISA,  
 7 as proposed to be amended, strike out “1985”  
 8 and insert in lieu thereof “1986”.

9 (45) SECTION 11016(c)(3).—In section  
 10 11016(c)(3) of the bill, in section 304(c)(1) of ERISA,  
 11 as proposed to be added, strike out “such application”  
 12 and insert in lieu thereof “the affected plan”.

13 (46) SECTION 11016(c)(4).—In section  
 14 11016(c)(4) of the bill, strike out “Act” and insert in  
 15 lieu thereof “title”, and, in section 412(f)(4)(A) of the  
 16 Internal Revenue Code of 1954, as proposed to be  
 17 added, strike out “such application” and insert in lieu  
 18 thereof “the affected plan”.

19 (47) SECTION 11016(c).—In section 11016(c) of  
 20 the bill, redesignate paragraphs (12) and (13) as para-  
 21 graphs (13) and (14), respectively, and insert after  
 22 paragraph (11) the following:

23 “(12) CONFORMING AMENDMENT.—Section  
 24 4044(a) (29 U.S.C. 1344(a)) is amended by striking out  
 25 ‘defined benefit’.”.

1           (48)     SECTION     11016(d)(4).—In     section  
2     11016(d)(4) of the bill, insert “the” after “of” the  
3     second place it appears.

4           (49)     SECTION     11017(a)(2)(A).—In     section  
5     11017(a)(2)(A) of the bill, strike out “Act” and insert  
6     in lieu thereof “title”.

7           (50)     SECTION     11017(a)(2)(G).—In     section  
8     11017(a)(2)(G) of the bill, strike out “a” and insert in  
9     lieu thereof “an”.

10          (51)     SECTION     11017(b)(2).—In     section  
11     11017(b)(2) of the bill, strike out “February 1, 1986,”  
12     and insert in lieu thereof “May 1, 1986,”.

13          (52)     SECTION     11018(a)(1)(C).—In     section  
14     11018(a)(1)(C) of the bill, insert “the date of the” after  
15     “prior to” in the matter following clause (iv).

16          (53)     SECTION     11018(b).—In section 11018(b) of  
17     the bill, strike out all the single quotation marks and  
18     insert in lieu thereof double quotation marks, and in  
19     paragraph (4)(H), strike out “limitaiton” and insert in  
20     lieu thereof “limitation”.

21          (54)     SECTION     11019.—In section 11019 of the  
22     bill, redesignate subsection (b) as subsection (c), and  
23     strike out subsection (a) and insert in lieu thereof the  
24     following new subsections:

1       “(a) IN GENERAL.—Except as otherwise provided in  
 2 this title, the amendments made by this title shall be effective  
 3 as of January 1, 1986, except that such amendments shall  
 4 not apply with respect to terminations for which—

5               “(1) notices of intent to terminate were filed with  
 6 the Pension Benefit Guaranty Corporation under sec-  
 7 tion 4041 of the Employee Retirement Income Securi-  
 8 ty Act of 1974 before such date, or

9               “(2) proceedings were commenced under section  
 10 4042 of such Act before such date.

11       “(b) TRANSITIONAL RULES.—

12               “(1) IN GENERAL.—In the case of a single-em-  
 13 ployer plan termination for which a notice of intent to  
 14 terminate was filed with the Pension Benefit Guaranty  
 15 Corporation under section 4041 of the Employee Re-  
 16 tirement Income Security Act of 1974 (as in effect  
 17 before the amendments made by this title) on or after  
 18 January 1, 1986, but before the date of the enactment  
 19 of this Act, the amendments made by this title shall  
 20 apply with respect to such termination, as modified by  
 21 paragraphs (2) and (3).

22               “(2) DEEMED COMPLIANCE WITH NOTICE RE-  
 23 QUIREMENTS.—The requirements of subsections (a)(2),  
 24 (b)(1)(A), and (c)(1)(A) of section 4041 of the Employee  
 25 Retirement Income Security Act of 1974 (as amended

1 by this title) shall be considered to have been met with  
2 respect to a termination described in paragraph (1) if—

3 “(A) the plan administrator provided notice  
4 to the participants in the plan regarding the ter-  
5 mination in compliance with applicable regulations  
6 of the Pension Benefit Guaranty Corporation as in  
7 effect on the date of the notice, and

8 “(B) the notice of intent to terminate provid-  
9 ed to the Pension Benefit Guaranty Corporation  
10 in connection with the termination was filed with  
11 the Corporation not less than 10 days before the  
12 proposed date of termination specified in the  
13 notice.

14 For purposes of section 4041 of such Act (as amended  
15 by this title), the proposed date of termination specified  
16 in the notice of intent to terminate referred to in sub-  
17 paragraph (B) shall be considered the proposed termi-  
18 nation date.

19 “(3) SPECIAL TERMINATION PROCEDURES.—

20 “(A) IN GENERAL.—This paragraph shall  
21 apply with respect to any termination described in  
22 paragraph (1) if, within 90 days after the date of  
23 enactment of this Act, the plan administrator noti-  
24 fies the Corporation in writing—

1           “(i) that the plan administrator wishes  
 2           the termination to proceed as a standard ter-  
 3           mination under section 4041(b) of the Em-  
 4           ployee Retirement Income Security Act of  
 5           1974 (as amended by this title) in accordance  
 6           with subparagraph (B),

7           “(ii) that the plan administrator wishes  
 8           the termination to proceed as a distress ter-  
 9           mination under section 4041(c) of such Act  
 10          (as amended by this title) in accordance with  
 11          subparagraph (C), or

12          “(iii) that the plan administrator wishes  
 13          to stop the termination proceedings in ac-  
 14          cordance with subparagraph (D).

15          “(B) TERMINATIONS PROCEEDING AS  
 16          STANDARD TERMINATION.—

17               “(i) TERMINATIONS FOR WHICH SUFFI-  
 18               CIENCY NOTICES HAVE NOT BEEN  
 19               ISSUED.—

20               “(I) IN GENERAL.—In the case of  
 21               a plan termination described in para-  
 22               graph (1) with respect to which the  
 23               Corporation has been provided the noti-  
 24               fication described in subparagraph (A)(i)  
 25               and with respect to which a notice of

1 sufficiency has not been issued by the  
2 Corporation before the date of the en-  
3 actment of this Act, if, during the 90-  
4 day period commencing on the date of  
5 the notice required in subclause (II), all  
6 benefit commitments under the plan  
7 have been satisfied, the termination  
8 shall be treated as a standard termina-  
9 tion under section 4041(b) of such Act  
10 (as amended by this title).

11 “(II) SPECIAL NOTICE REGARD-  
12 ING SUFFICIENCY FOR TERMINATIONS  
13 FOR WHICH NOTICES OF SUFFICIENCY  
14 HAVE NOT BEEN ISSUED AS OF DATE  
15 OF ENACTMENT.—In the case of a plan  
16 termination described in paragraph (1)  
17 with respect to which the Corporation  
18 has been provided the notification de-  
19 scribed in subparagraph (A)(i) and with  
20 respect to which a notice of sufficiency  
21 has not been issued by the Corporation  
22 before the date of the enactment of this  
23 Act, the Corporation shall make the de-  
24 terminations described in section  
25 40412(c)(3)(A) (i) and (ii) (as amended

1 by this title) and notify the plan admin-  
2 istrator of such determinations as pro-  
3 vided in section 4041(c)(3)(A)(iii) (as  
4 amended by this title).

5 “(ii) TERMINATIONS FOR WHICH NO-  
6 TICES OF SUFFICIENCY HAVE BEEN  
7 ISSUED.—In the case of plan termination de-  
8 scribed in paragraph (1) with respect to  
9 which the Corporation has been provided the  
10 notification described in subparagraph (A)(i)  
11 and with respect to which a notice of suffi-  
12 ciency has been issued by the Corporation  
13 before the date of the enactment of this Act,  
14 clause (i)(I) shall apply, except that the 90-  
15 day period referred to in clause (i)(I) shall  
16 begin on the date of the enactment of this  
17 Act.

18 “(C) TERMINATIONS PROCEEDING AS DIS-  
19 TRESS TERMINATION.—In the case of a plan ter-  
20 mination described in paragraph (1) with respect  
21 to which the Corporation has been provided the  
22 notification described in subparagraph (A)(ii), if  
23 the requirements of section 4041(c)(2)(B) of such  
24 Act (as amended by this title) are met, the termi-  
25 nation shall be treated as a distress termination



1 under section 4041(c) of such Act (as amended by  
2 this title).

3 “(D) TERMINATION OF PROCEEDINGS BY  
4 PLAN ADMINISTRATOR.—

5 “(i) IN GENERAL.—Except as provided  
6 in clause (ii), in the case of a plan termina-  
7 tion described in paragraph (1) with respect  
8 to which the Corporation has been provided  
9 the notification described in subparagraph  
10 (A)(iii), the termination shall not take effect.

11 “(ii) TERMINATIONS WITH RESPECT TO  
12 WHICH FINAL DISTRIBUTION OF ASSETS  
13 HAS COMMENCED.—Clause (i) shall not  
14 apply with respect to a termination with re-  
15 spect to which the final distribution of assets  
16 has commenced before the date of the enact-  
17 ment of this Act unless, within 90 days after  
18 the date of the enactment of this Act, the  
19 plan has been restored in accordance with  
20 procedures issued by the Corporation pursu-  
21 ant to subsection (c).

22 “(E) AUTHORITY OF CORPORATION TO  
23 EXTEND 90-DAY PERIODS TO PERMIT STANDARD  
24 TERMINATION.—The Corporation may, on a  
25 case-by-case basis in accordance with subsection

1 (c), provide for extensions of the applicable 90-day  
2 period referred to in clause (i) or (ii) of subpara-  
3 graph (B) if it is demonstrated to the satisfaction  
4 of the Corporation that—

5 “(i) the plan could not otherwise, pursu-  
6 ant to the preceding provisions of this para-  
7 graph, terminate in a termination treated as  
8 a standard termination under section 4041(b)  
9 of the Employee Retirement Income Securi-  
10 ty Act of 1974 (as amended by this title),  
11 and

12 “(ii) the extension would result in a  
13 greater likelihood that benefit commitments  
14 under the plan would be paid in full,  
15 except that any such period may not be so ex-  
16 tended beyond one year after the date of the en-  
17 actment of this Act.”.

○

99TH CONGRESS  
2D SESSION

# H. CON. RES. 305

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IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, MARCH 18), 1986

Received

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## CONCURRENT RESOLUTION

To make technical corrections in the enrollment of the bill  
H.R. 3128.

1       *Resolved by the House of Representatives (the Senate*  
2   *concurring)*, That, in the enrollment of the bill (H.R. 3128)  
3   to make changes in spending and revenue provisions for pur-  
4   poses of deficit reduction and program improvement, consist-  
5   ent with the budget process, the Clerk of the House of Rep-  
6   resentatives shall make the following corrections:

7           (1) SECTION 11001.—In section 11001 of the  
8       bill, strike out “1985” and insert in lieu thereof  
9       “1986”.

10          (2) SECTION 11002(c).—In section 11002(c) of  
11       the bill, strike out “Act” and insert in lieu thereof  
12       “title”.

1           (3) SECTION 11004.—In section 11004 of the  
2 bill—

3           (A) in section 4001(a)(2)(B) of the Employee  
4 Retirement Income Security Act of 1974 (herein-  
5 after in this resolution referred to as “ERISA”),  
6 as proposed to be amended, strike out “affiliated  
7 group” and all that follows and insert in lieu  
8 thereof “controlled group, and”;

9           (B) in section 4001(a)(13)(A) of ERISA, as  
10 proposed to be added, insert “, in connection with  
11 such plan,” after “responsible”;

12          (C) in section 4001(a)(14)(B) of ERISA, as  
13 proposed to be added, strike out “section 414(c)”  
14 and insert in lieu thereof “subsections (b) and (c)  
15 of section 414”;

16          (D) in section 4001(a)(15) of ERISA, as pro-  
17 posed to be added, strike out “, except as other-  
18 wise specifically provided in this title,”;

19          (E) in section 4001(a)(17)(B) of ERISA, as  
20 proposed to be added, strike out “as of such date”  
21 and insert in lieu thereof “(as of such date)”;

22          (F) in section 4001(a)(18) of ERISA, as pro-  
23 posed to be added, strike out “of” the fourth  
24 place it appears in subparagraph (A) and insert in  
25 lieu thereof “to”, and strike out “as of such date”

1 in subparagraph (B) and insert in lieu thereof “(as  
2 of such date)”; and

3 (G) in section 4001(a)(19) of ERISA, as pro-  
4 posed to be added, strike out “of” the fifth place  
5 it appears in subparagraph (A) and insert in lieu  
6 thereof “to”, and insert “required to be” after  
7 “are” in subparagraph (B).

8 (4) SECTION 11004(b).—In section 11004(b) of  
9 the bill—

10 (A) strike out “paragraphs” and insert in lieu  
11 thereof “paragraph”; and

12 (B) strike out paragraphs (2) and (3) of sec-  
13 tion 4001(b) of ERISA, as proposed to be added,  
14 and insert in lieu thereof the following:

15 “(2) For purposes of subtitle E—

16 “(A) except as otherwise provided in subtitle E,  
17 contributions or other payments shall be considered  
18 made under a plan for a plan year if they are made  
19 within the period prescribed under section 412(c)(10) of  
20 the Internal Revenue Code of 1954 (determined, in the  
21 case of a terminated plan, as if the plan had continued  
22 beyond the termination date), and

23 “(B) the term ‘Secretary of the Treasury’ means  
24 the Secretary of the Treasury or such Secretary’s dele-  
25 gate.”.

1           (5) SECTION 11005(c).—In section 11005(c)—

2                   (A) redesignate paragraphs (9) and (10) as  
3           paragraphs (10) and (11), respectively;

4                   (B) insert after paragraph (8) the following  
5           new paragraph (9):

6           “(9) Subsection (f)(4)(C) of section 4022A (29  
7           U.S.C. 1322a(f)(4)(C)) is amended by striking out ‘con-  
8           current’ and inserting in lieu thereof ‘joint’.”.

9                   and

10                  (C) Insert after paragraph (11) (as redesign-  
11           nated) the following new paragraph (12):

12           “(12) Subsection (g)(4)(D) of section 4022A (29  
13           U.S.C. 1322a(g)(4)(D)) is amended by striking out  
14           ‘concurrent’ and inserting in lieu thereof ‘joint’.”.

15           (6) SECTION 11005.—In section 11005 of the  
16           bill, add at the end the following new subsection:

17           “(e) TRANSITIONAL RULE.—

18                   “(1) NOTICE OF PREMIUM INCREASE.—Not later  
19           than 30 days after the date of the enactment of this  
20           Act, the Pension Benefit Guaranty Corporation shall  
21           send a notice to the plan administrator of each single-  
22           employer plan affected by the premium increase estab-  
23           lished by the amendment made by subsection (a)(1).  
24           Such notice shall describe such increase and the re-  
25           quirements of this subsection.

1           “(2) DUE DATE FOR UNPAID PREMIUMS.—With  
2       respect to any plan year beginning during the period  
3       beginning on January 1, 1986, and ending 30 days  
4       after the date of the enactment of this Act, any unpaid  
5       amount of such premium increase shall be due and  
6       payable no later than the earlier of 60 days after the  
7       date of the enactment of this Act or 30 days after the  
8       date on which the notice required by paragraph (1) is  
9       sent, except that in no event shall the amount of the  
10      premium increase established under the amendment  
11      made by subsection (a)(1) be due and payable for a  
12      plan year earlier than the date on which premiums for  
13      the plan would have been due for such plan year had  
14      this Act not been enacted.

15           “(3) ENFORCEMENT.—For purposes of enforce-  
16      ment, the requirements of paragraphs (1) and (2) shall  
17      be considered to be requirements of sections 4006 and  
18      4007 of the Employee Retirement Income Security  
19      Act of 1974 (29 U.S.C. 1306 and 1307).”.

20           (7) SECTION 11006(a).—In section 11006(a) of  
21      the bill, in section 204(h) of ERISA, as proposed to be  
22      added—

23                   (A) strike out “on or after the date of the en-  
24                   actment of the Single-Employer Pension Plan  
25                   Amendments Act of 1985”; and

1 (B) in paragraph (2), strike out “under the  
2 plan who is a beneficiary of a deceased participant  
3 or”.

4 (8) SECTION 11006(b).—In section 11006(b) of  
5 the bill, strike out “the date described in section  
6 11019(a)” and insert in lieu thereof “January 1, 1986,  
7 except that, in the case of plan amendments adopted  
8 on or after January 1, 1986, and on or before the date  
9 of the enactment of this Act, the requirements of sec-  
10 tion 204(h) of the Employee Retirement Income Secu-  
11 rity Act of 1974 (as added by this section) shall be  
12 treated as met if the written notice required under such  
13 section 204(h) is provided before 60 days after the date  
14 of the enactment of this Act”.

15 (9) SECTION 11007(a).—In section 11007(a) of  
16 the bill, in section 4041(a)(2) of ERISA, as proposed  
17 to be amended, strike out “plan termination under sub-  
18 section (b) or (c)” and insert in lieu thereof “standard  
19 termination under subsection (b) or a distress termina-  
20 tion under subsection (c)”, and insert “of” after  
21 “case”.

22 (10) SECTION 11008(a).—In section 11008(a) of  
23 the bill—

24 (A) in section 4041(b)(2)(A) of ERISA, as  
25 proposed to be amended, strike out “the termina-



1           tion date proposed in the notice” and insert in  
2           lieu thereof “the date on which the notice of  
3           intent to terminate is”, and in clause (iii), strike  
4           out “is” and insert in lieu thereof “are”;

5           (B) in section 4041(b)(2)(B) of ERISA, as  
6           proposed to be amended, strike out “At the time”  
7           and insert in lieu thereof “No later than the date  
8           on which”, and in clause (i), strike out “, ex-  
9           pressed in terms of the normal form of benefits  
10          under the plan,” and insert in lieu thereof “and  
11          the benefit form on the basis of which such  
12          amount is determined”;

13          (C) in section 4041(b)(2)(C)(i) of ERISA, as  
14          proposed to be amended, strike out “provide the  
15          plan administrator with a notice of noncompli-  
16          ance” and insert in lieu thereof “issue a notice of  
17          noncompliance to the plan administrator”, and in  
18          subclause (I), strike out “the requirements of sub-  
19          section (a)(2) and subparagraphs (A) and (B)  
20          have” and insert in lieu thereof “any requirement  
21          of subsection (a)(2) or subparagraph (A) or (B)  
22          has”;

23          (D) in section 4041(b)(3)(A) of ERISA, as  
24          proposed to be amended, strike out “the termina-  
25          tion of the plan” and insert in lieu thereof “the

1           standard termination of the plan under this sub-  
 2           section”, and in clauses (i) and (ii), strike out “are  
 3           allocated” each place it appears and insert in lieu  
 4           thereof “are required to be allocated”; and

5           (E) in section 4041(b)(3)(B) of ERISA, as  
 6           proposed to be amended, strike out “the termina-  
 7           tion of the plan” and insert in lieu thereof “the  
 8           standard termination of the plan under this sub-  
 9           section”, and strike out “are allocated” and insert  
 10          in lieu thereof “are required to be allocated”.

11          (11) SECTION 11008(b).—In section 11008 of the  
 12          bill, strike out subsection (b) and insert in lieu thereof  
 13          the following:

14          “(b) CONFORMING AMENDMENT.—Section 4041(f) (29  
 15          U.S.C. 1341(f) is amended to read as follows:

16          “ ‘(f) LIMITATION ON THE CONVERSION OF A DE-  
 17          FINED BENEFIT PLAN TO A DEFINED CONTRIBUTION  
 18          PLAN.—The adoption of an amendment to a plan which  
 19          causes the plan to become a plan described in section  
 20          4021(b)(1) constitutes a termination of the plan. Such an  
 21          amendment may take effect only after the plan satisfies the  
 22          requirements for standard termination under subsection (b) or  
 23          distress termination under subsection (c).’ ”.

24          (12) SECTION 11008(c).—In section 11008(c) of  
 25          the bill, strike out “May 1, 1986,” and insert in lieu

1       thereof “120 days after the date of the enactment of  
2       this Act,”.

3               (13) SECTION 11008(d).—In section 11008(d) of  
4       the bill, strike out paragraphs (1) and (2) and insert in  
5       lieu thereof the following paragraphs (1) and (2):

6               “(1) REQUIREMENTS TO BE MET BEFORE FINAL  
7       DISTRIBUTION OF ASSETS.—In the case of the termi-  
8       nation of a single-employer plan described in paragraph  
9       (2) with respect to which the amount payable to the  
10      employer pursuant to section 4044(d) exceeds  
11      \$1,000,000 (determined as of the proposed date of final  
12      distribution of assets), the final distribution of assets  
13      pursuant to such termination may not occur unless the  
14      Pension Benefit Guaranty Corporation—

15              “(A) determines that the assets of the plan  
16              are sufficient for benefit commitments (within the  
17              meaning of section 4041(d)(1) of the Employee  
18              Retirement Income Security Act of 1974 (as  
19              amended by section 11007)) under the plan, and

20              “(B) issues to the plan administrator a writ-  
21              ten notice setting forth the determination de-  
22              scribed in subparagraph (A).

23              “(2) PLANS TO WHICH SUBSECTION APPLIES.—

24      A single-employer plan is described in this paragraph  
25      if—

1           “(A) the plan administrator has filed a notice  
2 of intent to terminate with the Pension Benefit  
3 Guaranty Corporation, and—

4           “(i) the filing was made before January  
5 1, 1986, and the Corporation has not issued  
6 a notice of sufficiency for such plan before  
7 the date of the enactment of this Act, or

8           “(ii) the filing is made on or after Janu-  
9 ary 1, 1986, and before 60 days after the  
10 date of the enactment of this Act and the  
11 Corporation has not issued a notice of suffi-  
12 ciency for such plan before the date of the  
13 enactment of this Act, and

14           “(B) of the persons who are (as of the termi-  
15 nation date) participants in the plan, the lesser of  
16 10 percent or 200 have filed complaints with the  
17 Corporation regarding such termination—

18           “(i) in the case of plans described in  
19 subparagraph (A)(i), before 15 days after the  
20 date of the enactment of this Act, or

21           “(ii) in any other case, before the later  
22 of 15 days after the date of the enactment of  
23 this Act or 45 days after the date of the  
24 filing of such notice.”.

1           (14)   SECTION   11008(d)(4)(A).—In   section  
2   11008(d)(4)(A) of the bill, strike out “paragraph (1)(C)”  
3   and insert in lieu thereof “paragraph (1)(B)”.

4           (15)   SECTION   11008(d)(4)(B).—In   section  
5   11008(d)(4)(B) of the bill, strike out “The preceding  
6   provisions of this subsection shall not apply (except in  
7   the case of an acquisition, takeover, or leveraged  
8   buyout)” and insert in lieu thereof “Except in the case  
9   of an acquisition, takeover, or leveraged buyout, the  
10   preceding provisions of this subsection shall not apply”,  
11   and strike out “it” and insert in lieu thereof “the con-  
12   tributing sponsor”.

13           (16) SECTION 11009(a).—In section 11009(a) of  
14   the bill—

15                   (A) strike out “title)” and insert in lieu  
16                   thereof “Act”;

17                   (B) in section 4041(c)(2)(A) of ERISA, as  
18                   proposed to be amended, strike out “the termina-  
19                   tion date proposed in the notice of intent to termi-  
20                   nate provided” and insert in lieu thereof “the date  
21                   on which the notice of intent to terminate is pro-  
22                   vided”, and strike out “is” in clause (iv) and  
23                   insert in lieu thereof “are”;

24                   (C) in section 4041(c)(2)(B) of ERISA, as  
25                   proposed to be amended, insert “(as of the termi-

1 nation date)” after “each person who is”, strike  
2 out “it” in clause (i)(I) and insert in lieu thereof  
3 “such person”, strike out “it” in clause (ii)(I) and  
4 insert in lieu thereof “such person”, and insert  
5 “to such person” after “unreasonably burden-  
6 some” in clause (iii)(II);

7 (D) in section 4041(c)(2)(C) of ERISA, as  
8 proposed to be amended, strike out the last sen-  
9 tence;

10 (E) in section 4041(c)(3)(A) of ERISA, as  
11 proposed to be amended, strike out “whether”  
12 each place it appears in clauses (i) and (ii) and  
13 insert in lieu thereof “that”;

14 (F) in section 4041(c)(3)(B) of ERISA, as  
15 proposed to be amended—

16 (i) strike out “in the manner described  
17 in subsection (b)(3), and” in clause (i) and  
18 insert in lieu thereof “, and make certifica-  
19 tion to the corporation with respect to such  
20 distribution, in the manner described in sub-  
21 section (b)(3), and shall”;

22 (ii) strike out “that the plan is not suffi-  
23 cient for benefit commitments (or” in clause  
24 (ii), strike out “it)” in clause (ii) and insert in  
25 lieu thereof “it”, strike out “whether” in

1 clause (ii) and insert in lieu thereof “that”,  
2 insert after “subsection (b)(3),” in clause  
3 (ii)(I) the following: “make certification to  
4 the corporation that the distribution has oc-  
5 curred, and take such actions as may be ap-  
6 propriate to carry out the termination of the  
7 plan,”; and

8 (iii) strike out “that the plan is not suf-  
9 ficient for guaranteed benefits (or” in clause  
10 (iii), strike out “it)” in clause (iii) and insert  
11 in lieu thereof “it”, and strike out “whether”  
12 in clause (iii) and insert in lieu thereof  
13 “that”;

14 (G) in section 4041(c)(3)(C) of ERISA, as  
15 proposed to be amended, strike out clauses (i) and  
16 (ii) and insert in lieu thereof the following:

17 “(i) FINDING WITH RESPECT TO BENE-  
18 FIT COMMITMENTS WHICH ARE NOT GUAR-  
19 ANTEED BENEFITS.—If, after the plan ad-  
20 ministrator has begun to terminate the plan  
21 as authorized under subparagraph (B)(i), the  
22 plan administrator finds that the plan is  
23 unable, or will be unable, to pay benefit com-  
24 mitments which are not benefits guaranteed  
25 by the corporation under section 4022, the

1 plan administrator shall notify the corpora-  
2 tion of such finding as soon as practicable  
3 thereafter. If the corporation concurs in the  
4 finding of the plan administrator (or the cor-  
5 poration itself makes such a finding) the cor-  
6 poration shall take the actions set forth in  
7 subparagraph (B)(ii)(II) relating to the trust  
8 established for purposes of section 4049.

9 “(ii) FINDING WITH RESPECT TO  
10 GUARANTEED BENEFITS.—If, after the plan  
11 administrator has begun to terminate the  
12 plan as authorized by subparagraph (B)(i) or  
13 (ii), the plan administrator finds that the plan  
14 is unable, or will be unable, to pay all bene-  
15 fits under the plan which are guaranteed by  
16 the corporation under section 4022, the plan  
17 administrator shall notify the corporation of  
18 such finding as soon as practicable thereaf-  
19 ter. If the corporation concurs in the finding  
20 of the plan administrator (or the corporation  
21 itself makes such a finding), the corporation  
22 shall institute appropriate proceedings under  
23 section 4042.”.

24 and



(H) in section 4041(c)(3) of ERISA, as proposed to be amended, strike out subparagraph (D) and insert in lieu thereof the following:

“(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—

“(i) IN GENERAL.—The plan administrator shall—

“(I) meet the requirements of clause (ii) for the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), and

“(II) meet the requirements of clause (ii) commencing on the date on which the plan administrator or the corporation makes a finding under subparagraph (C)(ii).

“(ii) REQUIREMENTS.—The requirements of this clause are met by the plan administrator if the plan administrator—

“(I) refrains from distributing assets or taking any other actions to carry out the proposed termination of this subsection,

1           “(II) pays benefits attributable to em-  
2           ployer contributions, other than death bene-  
3           fits, only in the form of an annuity,

4           “(III) does not use plan assets to pur-  
5           chase irrevocable commitments to provide  
6           benefits from an insurer, and

7           “(IV) continues to pay all benefit com-  
8           mitments under the plan, but, commencing  
9           on the proposed termination date, limits the  
10          payment of benefits under the plan to those  
11          benefits which are guaranteed by the corpo-  
12          ration under section 4022 or to which assets  
13          are required to be allocated under section  
14          4044.

15          In the event the plan administrator is later deter-  
16          mined not to have met the requirements for dis-  
17          tress termination, any benefits which are not paid  
18          solely by reason of compliance with subclause  
19          (IV) shall be due and payable immediately (to-  
20          gether with interest, at a reasonable rate, in ac-  
21          cordance with regulations of the corporation).”.

22          (17) SECTION 11009(b).—In section 11009(b) of  
23          the bill, strike out “Act” and insert in lieu thereof  
24          “title”.

1           (18)     SECTION     11010(a)(1).—In     section  
2     11010(a)(1) of the bill, strike out subparagraph (B) and  
3     insert in lieu thereof the following:

4                   “(B) by inserting at the beginning of the  
5     matter following paragraph (4) the following new  
6     sentence: ‘The corporation shall as soon as practi-  
7     cable institute proceedings under this section to  
8     terminate a single-employer plan whenever the  
9     corporation determines that the plan does not  
10    have assets available to pay benefits which are  
11    currently due under the terms of the plan.’.”.

12           (19)     SECTION     11010(a)(2)(A).—In     section  
13    11010(a)(2)(A) of the bill, strike out “court”.

14           (20)     SECTION     11010(a)(2)(B).—In     section  
15    11010(a)(2)(B) of the bill, strike out “it may,” and  
16    insert in lieu thereof “has determined”, strike out  
17    “court”, and strike out “(whether” and all that follows  
18    down through “shall,”.

19           (21) SECTION 11010(b).—In section 11010 of the  
20    bill, insert after subsection (a) the following new sub-  
21    section:

22           “(b) ESTABLISHMENT OF SECTION 4049 TRUST.—  
23    Section 4042 is further amended by adding at the end thereof  
24    the following new subsection:

1       “(i) In any case in which a plan is terminated under  
 2 this section in a termination proceeding initiated by the cor-  
 3 poration pursuant to subsection (a), the corporation shall es-  
 4 tablish a separate trust in connection with the plan for pur-  
 5 poses of section 4049, unless the corporation determines that  
 6 all benefit commitments under the plan are benefits guaran-  
 7 teed by the corporation under section 4022 or that there is no  
 8 amount of unfunded benefit commitments under the plan.’.”.

9           (22) SECTION 11011(a).—In section 11011(a) of  
 10 the bill, strike out “(a) Liability” and all that follows  
 11 down through “following:” and insert in lieu thereof  
 12 the following:

13       “(a) LIABILITY FOR DISTRESS TERMINATIONS AND  
 14 TERMINATIONS BY THE CORPORATION.—Section 4062 (29  
 15 U.S.C. 1362) is amended—

16           “(1) by redesignating subsection (e) as subsection  
 17 (f); and

18           “(2) by striking out so much as precedes subsec-  
 19 tion (f) (as redesignated) and inserting in lieu thereof  
 20 the following:”.

21           (23) SECTION 11011(a).—In section 11011(a) of  
 22 the bill, in section 4062(a) of ERISA, as proposed to  
 23 be amended, insert a comma after “corporation” in  
 24 paragraph (1), insert “or section 4042(i),” after “or  
 25 (iii)” in paragraph (2), and strike out “referred to in

1 section 4042(d)(1)(B)” in paragraph (3) and insert in  
 2 lieu thereof “appointed under subsection (b) or (c) of  
 3 section 4042,”.

4 (24) SECTION 11011(a).—In section 11011(a) of  
 5 the bill, strike out section 4026(b) of ERISA, as pro-  
 6 posed to be amended, and insert in lieu thereof the fol-  
 7 lowing:

8 “(b) LIABILITY TO THE CORPORATION.—

9 “(1) AMOUNT OF LIABILITY.—

10 “(A) IN GENERAL.—Except as provided in  
 11 subparagraph (B), the liability to the corporation  
 12 of a person described in subsection (a) shall con-  
 13 sist of the sum of—

14 “(i) the lesser of—

15 “(I) the total amount of unfunded  
 16 guaranteed benefits (as of the termina-  
 17 tion date) of all participants and benefici-  
 18 aries under the plan, or

19 “(II) 30 percent of the collective  
 20 net worth of all persons described in  
 21 subsection (a),

22 and

23 “(i) the excess (if any) of—

24 “(I) 75 percent of the amount de-  
 25 scribed in clause (i)(I), over

1                   “(II) the amount described in  
2                   clause (i)(II),  
3                   together with interest (at a reasonable rate) calcu-  
4                   lated from the termination date in accordance  
5                   with regulations prescribed by the corporation.

6                   “(B) SPECIAL RULE IN CASE OF SUBSE-  
7                   QUENT INSUFFICIENCY.—For purposes of sub-  
8                   paragraph (A), in any case described in section  
9                   4041(c)(3)(C)(ii), actuarial present values shall be  
10                  determined as of the date of the notice to the cor-  
11                  poration (or the finding by the corporation) de-  
12                  scribed in such section.

13               “(2) PAYMENT OF LIABILITY.—

14               “(A) IN GENERAL.—Except as provided in  
15               subparagraph (B), the liability to the corporation  
16               under this subsection shall be due and payable to  
17               the corporation as of the termination date, in cash  
18               or securities acceptable to the corporation.

19               “(B) SPECIAL RULE.—Payment of the liabil-  
20               ity under paragraph (1)(A)(ii) shall be made under  
21               commercially reasonable terms prescribed by the  
22               corporation. The parties involved shall make a  
23               reasonable effort to reach agreement on such  
24               commercially reasonable terms. Any such terms  
25               prescribed by the corporation shall provide for de-

1           ferral of 50 percent of any amount of liability oth-  
 2           erwise payable for any year under this subpara-  
 3           graph if a person subject to such liability demon-  
 4           strates to the satisfaction of the corporation that  
 5           no person subject to such liability has any individ-  
 6           ual pre-tax profits for such person's fiscal year  
 7           ending during such year.

8           “(3) ALTERNATIVE ARRANGEMENTS.—The cor-  
 9           poration and any person liable under this section may  
 10          agree to alternative arrangements for the satisfaction  
 11          of liability to the corporation under this subsection.”.

12          (25) SECTION 11011(A).—In section 11011(a) of  
 13          the bill, strike out section 4062(c) of ERISA, as pro-  
 14          posed to be amended, and insert in lieu thereof the fol-  
 15          lowing:

16          “(c) LIABILITY TO SECTION 4049 TRUST.—

17               “(1) AMOUNT OF LIABILITY.—

18                   “(A) IN GENERAL.—In any case in which  
 19                   there is an outstanding amount of benefit commit-  
 20                   ments under a plan terminated under section  
 21                   4041(c) or 4042, a person described in subsection  
 22                   (a) shall be subject to liability under this subsec-  
 23                   tion to the trust established under section  
 24                   4041(c)(3)(B)(ii) or (iii) or section 4042(i) in con-  
 25                   nection with the terminated plan. Except as pro-

1           vided in subparagraph (B), the liability of such  
2           person under this subsection shall consist of the  
3           lesser of—

4                   “(i) 75 percent of the total outstanding  
5                   amount of benefit commitments under the  
6                   plan, or

7                   “(ii) 15 percent of the actuarial present  
8                   value (determined as of the termination date  
9                   on the basis of assumptions prescribed by the  
10                  corporation for purposes of section 4044) of  
11                  all benefit commitments under the plan.

12           “(B) SPECIAL RULE IN CASE OF SUBSE-  
13           QUENT INSUFFICIENCY.—For purposes of sub-  
14           paragraph (A)—

15                   “(i) PLANS INSUFFICIENT FOR GUAR-  
16                   ANTEED BENEFITS.—In any case described  
17                   in section 4041(c)(3)(C)(ii), actuarial present  
18                   values shall be determined as of the date of  
19                   the notice to the corporation (or the finding  
20                   by the corporation) described in such section.

21                   “(ii) PLANS SUFFICIENT FOR GUARAN-  
22                   TEED BENEFITS BUT INSUFFICIENT FOR  
23                   BENEFIT ENTITLEMENTS.—In any case de-  
24                   scribed in section 4041(c)(3)(C)(i) but not de-  
25                   scribed in section 4041(c)(3)(C)(ii), actuarial



1 present values shall be determined as of the  
2 date on which the final distribution of assets  
3 is completed.

4 “(2) PAYMENT OF LIABILITY.—

5 “(A) GENERAL RULE.—Except as otherwise  
6 provided in this paragraph, payment of a person’s  
7 liability under this subsection shall be made for li-  
8 ability payment years under commercially reason-  
9 able terms prescribed by the fiduciary designated  
10 by the corporation pursuant to section  
11 4049(b)(1)(A). Such fiduciary and the liable per-  
12 sons assessed liability under this subsection shall  
13 make a reasonable effort to reach agreement on  
14 such commercially reasonable terms.

15 “(B) SPECIAL RULE FOR PLANS WITH LOW  
16 AMOUNTS OF LIABILITY.—In any case in which  
17 the amount described in paragraph (1)(A) is less  
18 than \$100,000, the requirements of subparagraph  
19 (A) may be satisfied by payment of such liability  
20 over 10 liability payment years in equal annual  
21 installments (with interest at the rate determined  
22 under section 6621(b) of the Internal Revenue  
23 Code of 1954). The corporation may, by regula-  
24 tion, increase the dollar amount referred to in this  
25 subparagraph as it determines appropriate, taking

1           into account reasonable administrative costs of  
2           trusts established under section 4041(c)(3)(B) (ii)  
3           or (iii) or section 4042(i).

4                   “(C) DEFERRAL OF PAYMENTS.—The terms  
5           for payment provided for under subparagraph (A)  
6           or (B) shall also provide for deferral of 75 percent  
7           of any amount of liability otherwise payable for  
8           any liability payment year if a person subject to  
9           such liability demonstrates to the satisfaction of  
10          the corporation that no person subject to such li-  
11          ability has any individual pre-tax profits for such  
12          person’s fiscal year ending during such year. The  
13          amount of liability so deferred is payable only  
14          after payment in full of any amount of liability  
15          under subsection (b) in connection with the termi-  
16          nation of the same plan which has been deferred  
17          pursuant to terms provided for under subsection  
18          (b)(2)(B).”.

19               (26) SECTION 11011(a).—In section 11011(a) of  
20          the bill, in section 4062(d) of ERISA, as proposed to  
21          be amended, strike out “referred to in section  
22          4042(d)(1)(B)” and insert in lieu thereof “appointed  
23          under subsection (b) or (c) of section 4042” and in the  
24          matter following paragraph (3), insert “(at a reasonable  
25          rate) calculated from the termination date in accord-

1       ance with regulations prescribed by the corporation”  
2       after “interest”.

3               (27) SECTION 11011(a).—In section 11011(a) of  
4       the bill, in section 4062(e)(3) of ERISA, as proposed  
5       to be amended, strike out “begins” and insert in lieu  
6       thereof “ends”.

7               (28) SECTION 11011(b).—In section 11011(b) of  
8       the bill, strike out “Subsection (e) of section 4062”  
9       and insert in lieu thereof “Subsection (f) of section  
10      4062 (as redesignated by subsection (a)(1))” and strike  
11      out “(e)” the second place it appears and insert in lieu  
12      thereof “(f)”.

13              (29) SECTION 11011(c)(2).—In section  
14      11011(c)(2) of the bill, in section 404(g)(4) of the Inter-  
15      nal Revenue Code of 1954, as proposed to be added,  
16      strike out “Any” and insert in lieu thereof “For pur-  
17      poses of this subsection, any”, and strike out “the date  
18      described in section 11019(a) of the Single-Employer  
19      Pension Plan Amendments Act of 1985” and insert in  
20      lieu thereof “the date of the enactment of the Single-  
21      Employer Pension Plan Amendments Act of 1986”.

22              (30) SECTION 11011(c)(3).—In section  
23      11011(c)(3) of the bill, strike out “the date described in  
24      section 11019(a)” and insert in lieu thereof “January  
25      1, 1986,”.

1           (31) SECTION 11012(a).—In section 11012(a) of  
 2       the bill, in section 4049(a) of ERISA, as proposed to  
 3       be added, strike out the last sentence and insert in lieu  
 4       thereof the following:  
 5       “The trust shall be maintained for such period of time as is  
 6       necessary to receive all liability payments required to be  
 7       made to the trust under section 4062(c) with respect to the  
 8       terminated plan and to make all distributions required to be  
 9       made to participants and beneficiaries under this section with  
 10      respect to the terminated plan.”.

11           (32) SECTION 11012(a).—In section 11012(a) of  
 12      the bill, in section 4049 of ERISA, as proposed to be  
 13      added, strike out so much of subsection (b) as precedes  
 14      paragraph (2) and insert in lieu thereof the following:

15      “(b) DESIGNATION OF FIDUCIARY BY THE CORPORA-  
 16      TION.—

17           “(1) PURPOSES FOR DESIGNATION OF FIDUCI-  
 18      ARY.—

19           “(A) COLLECTION OF LIABILITY.—The cor-  
 20      poration shall designate a fiduciary (within the  
 21      meaning of section 3(21)) to serve as trustee of  
 22      the trust for purposes of conducting negotiations  
 23      and assessing and collection liability pursuant to  
 24      section 4062(c).

25           “(B) ADMINISTRATION OF TRUST.—

1                   “(i) CORPORATION’S FUNCTIONS.—

2                   Except as provided in clause (ii), the corpo-  
3                   ration shall serve as trustee of the trust for  
4                   purposes of administering the trust, including  
5                   making distributions from the trust to partici-  
6                   pants and beneficiaries.

7                   “(ii) DESIGNATION OF FIDUCIARY IF  
8                   COST-EFFECTIVE.—If the corporation deter-  
9                   mines that it would be cost-effective to do  
10                  so, it may designate a fiduciary (within the  
11                  meaning of section 3(21)), including the fidu-  
12                  ciary designated under subparagraph (A), to  
13                  perform the functions described in clause  
14                  (i).”.

15               (33) SECTION 11012(a).—In section 11012(a) of  
16               the bill, in section 4049(c)(1)(A) of ERISA, as pro-  
17               posed to be added, strike out “of” the second place it  
18               appears and insert in lieu thereof “to”.

19               (34) SECTION 11012(a).—In section 11012(a) of  
20               the bill, redesignate the second subsection (c) of section  
21               4049 of ERISA, as proposed to be added, as subsec-  
22               tion (d).

23               (35) SECTION 11012(b).—In section 11012(b) of  
24               the bill, in section 501(c)(24) of the Internal Revenue

1 Code of 1954, as proposed to be added, strike out  
2 “1985” and insert in lieu thereof “1986”.

3 (36) SECTION 11012(c).—In section 11012(c) of  
4 the bill, insert “of such Code” after “section 402(a)”.

5 (37) SECTION 11012(d).—In section 11012(d) of  
6 the bill, strike out “incurred under” and insert in lieu  
7 thereof “otherwise payable as provided in”.

8 (38) SECTION 11013(b).—In section 11013(b) of  
9 the bill, strike out “the date described in section  
10 11019(a)” and insert in lieu thereof “January 1,  
11 1986”.

12 (39) SECTION 11014(a).—In section 11014(a) of  
13 the bill, in section 4070(a) of ERISA, as proposed to  
14 be added, strike out “A person” and insert in lieu  
15 thereof “Any person”, strike out “who is adversely”  
16 and insert in lieu thereof “is adversely”, strike out “an  
17 employee organization which represents” and insert in  
18 lieu thereof “who is an employee organization repre-  
19 senting”, and by inserting “so adversely affected” after  
20 “beneficiary”.

21 (40) SECTION 11014(b)(1).—In section  
22 11014(b)(1) of the bill—

23 (A) in section 4003(f)(1) of ERISA, as pro-  
24 posed to be amended, strike out “who is adverse-  
25 ly” and insert in lieu thereof “is adversely”,

1 strike out “and any employee organization which  
 2 represents” and insert in lieu thereof “, or who is  
 3 an employee organization representing”, and by  
 4 inserting “so adversely affected” after “benefici-  
 5 ary”; and

6 (B) in section 4003(f)(2)(B) of ERISA, as  
 7 proposed to be amended, insert “for the judicial  
 8 district” after “district court”.

9 (41) SECTION 11014(b)(2).—In section  
 10 11014(b)(2) of the bill, in section 4003(e)(6)(C) of  
 11 ERISA, as proposed to be amended, strike out “if  
 12 such date is later than the date described in clause (i)”.

13 (42) SECTION 11015(a)(2)(A).—In section  
 14 11015(a)(2)(A) of the bill—

15 (A) in section 412(f)(3)(C)(i) of the Internal  
 16 Revenue Code of 1954, as proposed to be added,  
 17 strike out “outstanding” in subclause (III) and  
 18 insert in lieu thereof “outstanding”, and strike out  
 19 “subsection (d)” in subclause (III) and insert in  
 20 lieu thereof “subsection (e)”; and

21 (B) in section 412(f)(3)(C)(ii) of such Code, as  
 22 proposed to be added, strike out “of” the fourth  
 23 place it appears and insert in lieu thereof “or”.

24 (43) SECTION 11015(a)(3).—In section  
 25 11015(a)(3) of the bill, strike out “the date described in

1       section 11019(a)” and insert in lieu thereof “the date  
2       of the enactment of this Act”.

3           (44) SECTION 11016(a).—In section 11016(a) of  
4       the bill—

5                   (A) strike out paragraph (1);

6                   (B) redesignate paragraphs (2) and (3) as  
7       paragraphs (1) and (2), respectively; and

8                   (C) strike out paragraph (4) and insert in lieu  
9       thereof the following new paragraph:

10           “(3) RESTORATION OF PLANS.—Section 4047  
11       (29 U.S.C. 1347) is amended—

12                   “(A) in the first sentence, by inserting ‘under  
13       section 4041 or 4042’ after ‘terminated’ each  
14       place it appears; and

15                   “(B) in the second sentence, by striking out  
16       ‘section 4042’ and inserting in lieu thereof ‘sec-  
17       tion 4041 or 4042’.”.

18       and

19                   (D) redesignate paragraphs (5), (6), and (7)  
20       as paragraphs (4), (5), and (6), respectively;

21                   (E) in paragraph (5)(A)(ii)(I) (as redesignat-  
22       ed), strike out “, to which section 4021 applies  
23       and”;



1 (F) in paragraph (5)(A)(iii)(I) (as redesignat-  
2 ed), insert a comma after “section” the second  
3 place it appears;

4 (G) Strike out paragraph (5)(A)(iii)(III) (as  
5 redesignated) and insert in lieu thereof the follow-  
6 ing:

7 “(III) in paragraph (3), by insert-  
8 ing ‘under section 4041(c) or 4042’  
9 after ‘terminates’ and by striking out  
10 ‘employer’ in subparagraph (C) and in-  
11 serting in lieu thereof ‘contributing  
12 sponsor’.”.

13 and

14 (H) in paragraph (5)(A)(iv)(II) (as redesignat-  
15 ed), strike out “and”;

16 (I) in paragraph (5)(A)(iv)(III) (as redesignat-  
17 ed), strike out the period and insert in lieu thereof  
18 “; and”;

19 (J) in paragraph (5)(A)(iv) (as redesignated),  
20 add after subclause (III) the following;

21 “(IV) in paragraph (2), by striking  
22 out ‘termination’ and inserting in lieu  
23 thereof ‘plan terminated under section  
24 4042’.”.

25 and

1 (K) in paragraph (5)(B) (as redesignated),  
2 strike out clause (ii) and insert in lieu thereof the  
3 following:

4 “(ii) Section 4064(b) (29 U.S.C.  
5 1364(b)) is amended to read as follows:

6 “ ‘(b) The corporation shall determine the liability with  
7 respect to each contributing sponsor and each member of its  
8 controlled group in a manner consistent with section 4062,  
9 except that—

10 “ ‘(1) the amount of the liability determined under  
11 section 4062(b)(1) with respect to the entire plan—

12 “ ‘(A) shall be determined without regard to  
13 clauses (i)(II) and (ii) of section 4062(b)(1)(A), and

14 “ ‘(B) shall be allocated to each controlled  
15 group by multiplying such amount by a fraction—

16 “ ‘(i) the numerator of which is the  
17 amount required to be contributed to the  
18 plan for the last 5 plan years ending prior to  
19 the termination date by persons in such con-  
20 trolled group as contributing sponsors, and

21 “ ‘(ii) the denominator of which is the  
22 total amount required to be contributed to  
23 the plan for such last 5 plan years by all  
24 persons as contributing sponsors,

1 and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall  
 2 be applied separately with respect to each such con-  
 3 trolled group, and

4 “ (2) the amount of the liability determined under  
 5 section 4062(c)(1) with respect to the entire plan shall  
 6 be allocated to each controlled group by multiplying  
 7 such amount by the fraction described in paragraph  
 8 (1)(B) in connection with such controlled group.

9 The corporation may also determine the liability of each such  
 10 contributing sponsor and member of its controlled group on  
 11 any other equitable basis prescribed by the corporation in  
 12 regulations.’ ”.

13 and

14 (L) in paragraph (5)(C) (as redesignated),  
 15 strike out “any” the second place it appears in  
 16 clause (ii), and strike out “comprises with others”  
 17 in clause (iii) and insert in lieu thereof “(alone or  
 18 together with members of such contributing spon-  
 19 sor’s controlled group) constitutes”;

20 (M) in subparagraph (B)(ii) of paragraph (6)  
 21 (as redesignated), strike out “section  
 22 4062(b)(1)(A)” and insert in lieu thereof “section  
 23 4062(b)(1)(A)(i)”;

24 (N) in subparagraph (B)(vi) of paragraph (6)  
 25 (as redesignated), in section 4068(c)(1) of ERISA,

1 as proposed to be amended, strike out “1985”  
 2 and insert in lieu thereof “1986”.

3 (45) SECTION 11016(c)(3).—In section  
 4 11016(c)(3) of the bill, in section 304(c)(1) of ERISA,  
 5 as proposed to be added, strike out “such application”  
 6 and insert in lieu thereof “the affected plan”.

7 (46) SECTION 11016(c)(4).—In section  
 8 11016(c)(4) of the bill, strike out “Act” and insert in  
 9 lieu thereof “title”, and, in section 412(f)(4)(A) of the  
 10 Internal Revenue Code of 1954, as proposed to be  
 11 added, strike out “such application” and insert in lieu  
 12 thereof “the affected plan”.

13 (47) SECTION 11016(c).—In section 11016(c) of  
 14 the bill, redesignate paragraphs (12) and (13) as para-  
 15 graphs (13) and (14), respectively, and insert after  
 16 paragraph (11) the following:

17 “(12) CONFORMING AMENDMENT.—Section  
 18 4044(a) (29 U.S.C. 1344(a)) is amended by striking out  
 19 ‘defined benefit’.”.

20 (48) SECTION 11016(d)(4).—In section  
 21 11016(d)(4) of the bill, insert “the” after “of” the  
 22 second place it appears.

23 (49) SECTION 11017(a)(2)(A).—In section  
 24 11017(a)(2)(A) of the bill, strike out “Act” and insert  
 25 in lieu thereof “title”.

1           (50)   SECTION   11017(a)(2)(G).—In   section  
2   11017(a)(2)(G) of the bill, strike out “a” and insert in  
3   lieu thereof “an”.

4           (51)   SECTION   11017(b)(2).—In   section  
5   11017(b)(2) of the bill, strike out “February 1, 1986,”  
6   and insert in lieu thereof “May 1, 1986,”.

7           (52)   SECTION   11018(a)(1)(C).—In   section  
8   11018(a)(1)(C) of the bill, insert “the date of the” after  
9   “prior to” in the matter following clause (iv).

10          (53) SECTION 11018(b).—In section 11018(b) of  
11   the bill, strike out all the single quotation marks and  
12   insert in lieu thereof double quotation marks, and in  
13   paragraph (4)(H), strike out “limitaiton” and insert in  
14   lieu thereof “limitation”.

15          (54) SECTION 11019.—In section 11019 of the  
16   bill, redesignate subsection (b) as subsection (c), and  
17   strike out subsection (a) and insert in lieu thereof the  
18   following new subsections:

19          “(a) IN GENERAL.—Except as otherwise provided in  
20   this title, the amendments made by this title shall be effective  
21   as of January 1, 1986, except that such amendments shall  
22   not apply with respect to terminations for which—

23                 “(1) notices of intent to terminate were filed with  
24   the Pension Benefit Guaranty Corporation under sec-

1       tion 4041 of the Employee Retirement Income Securi-  
2       ty Act of 1974 before such date, or

3               “(2) proceedings were commenced under section  
4       4042 of such Act before such date.

5       “(b) TRANSITIONAL RULES.—

6               “(1) IN GENERAL.—In the case of a single-em-  
7       ployer plan termination for which a notice of intent to  
8       terminate was filed with the Pension Benefit Guaranty  
9       Corporation under section 4041 of the Employee Re-  
10      tirement Income Security Act of 1974 (as in effect  
11      before the amendments made by this title) on or after  
12      January 1, 1986, but before the date of the enactment  
13      of this Act, the amendments made by this title shall  
14      apply with respect to such termination, as modified by  
15      paragraphs (2) and (3).

16              “(2) DEEMED COMPLIANCE WITH NOTICE RE-  
17      QUIREMENTS.—The requirements of subsections (a)(2),  
18      (b)(1)(A), and (c)(1)(A) of section 4041 of the Employee  
19      Retirement Income Security Act of 1974 (as amended  
20      by this title) shall be considered to have been met with  
21      respect to a termination described in paragraph (1) if—

22                      “(A) the plan administrator provided notice  
23                      to the participants in the plan regarding the ter-  
24                      mination in compliance with applicable regulations

1 of the Pension Benefit Guaranty Corporation as in  
2 effect on the date of the notice, and

3 “(B) the notice of intent to terminate provid-  
4 ed to the Pension Benefit Guaranty Corporation  
5 in connection with the termination was filed with  
6 the Corporation not less than 10 days before the  
7 proposed date of termination specified in the  
8 notice.

9 For purposes of section 4041 of such Act (as amended  
10 by this title), the proposed date of termination specified  
11 in the notice of intent to terminate referred to in sub-  
12 paragraph (B) shall be considered the proposed termi-  
13 nation date.

14 “(3) SPECIAL TERMINATION PROCEDURES.—

15 “(A) IN GENERAL.—This paragraph shall  
16 apply with respect to any termination described in  
17 paragraph (1) if, within 90 days after the date of  
18 enactment of this Act, the plan administrator noti-  
19 fies the Corporation in writing—

20 “(i) that the plan administrator wishes  
21 the termination to proceed as a standard ter-  
22 mination under section 4041(b) of the Em-  
23 ployee Retirement Income Security Act of  
24 1974 (as amended by this title) in accordance  
25 with subparagraph (B),

1           “(ii) that the plan administrator wishes  
2           the termination to proceed as a distress ter-  
3           mination under section 4041(c) of such Act  
4           (as amended by this title) in accordance with  
5           subparagraph (C), or

6           “(iii) that the plan administrator wishes  
7           to stop the termination proceedings in ac-  
8           cordance with subparagraph (D).

9           “(B) TERMINATIONS PROCEEDING AS  
10          STANDARD TERMINATION.—

11          “(i) TERMINATIONS FOR WHICH SUFFI-  
12          CIENCY NOTICES HAVE NOT BEEN  
13          ISSUED.—

14          “(I) IN GENERAL.—In the case of  
15          a plan termination described in para-  
16          graph (1) with respect to which the  
17          Corporation has been provided the noti-  
18          fication described in subparagraph (A)(i)  
19          and with respect to which a notice of  
20          sufficiency has not been issued by the  
21          Corporation before the date of the en-  
22          actment of this Act, if, during the 90-  
23          day period commencing on the date of  
24          the notice required in subclause (II), all  
25          benefit commitments under the plan



1 have been satisfied, the termination  
2 shall be treated as a standard termina-  
3 tion under section 4041(b) of such Act  
4 (as amended by this title).

5 “(II) SPECIAL NOTICE REGARD-  
6 ING SUFFICIENCY FOR TERMINATIONS  
7 FOR WHICH NOTICES OF SUFFICIENCY  
8 HAVE NOT BEEN ISSUED AS OF DATE  
9 OF ENACTMENT.—In the case of a plan  
10 termination described in paragraph (1)  
11 with respect to which the Corporation  
12 has been provided the notification de-  
13 scribed in subparagraph (A)(i) and with  
14 respect to which a notice of sufficiency  
15 has not been issued by the Corporation  
16 before the date of the enactment of this  
17 Act, the Corporation shall make the de-  
18 terminations described in section  
19 40412(c)(3)(A) (i) and (ii) (as amended  
20 by this title) and notify the plan admin-  
21 istrator of such determinations as pro-  
22 vided in section 4041(c)(3)(A)(iii) (as  
23 amended by this title).

24 “(ii) TERMINATIONS FOR WHICH NO-  
25 TICES OF SUFFICIENCY HAVE BEEN

1           ISSUED.—In the case of plan termination de-  
2           scribed in paragraph (1) with respect to  
3           which the Corporation has been provided the  
4           notification described in subparagraph (A)(i)  
5           and with respect to which a notice of suffi-  
6           ciency has been issued by the Corporation  
7           before the date of the enactment of this Act,  
8           clause (i)(I) shall apply, except that the 90-  
9           day period referred to in clause (i)(I) shall  
10          begin on the date of the enactment of this  
11          Act.

12          “(C) TERMINATIONS PROCEEDING AS DIS-  
13          TRESS TERMINATION.—In the case of a plan ter-  
14          mination described in paragraph (1) with respect  
15          to which the Corporation has been provided the  
16          notification described in subparagraph (A)(ii), if  
17          the requirements of section 4041(c)(2)(B) of such  
18          Act (as amended by this title) are met, the termi-  
19          nation shall be treated as a distress termination  
20          under section 4041(c) of such Act (as amended by  
21          this title).

22          “(D) TERMINATION OF PROCEEDINGS BY  
23          PLAN ADMINISTRATOR.—

24                 “(i) IN GENERAL.—Except as provided  
25                 in clause (ii), in the case of a plan termina-

tion described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(iii), the termination shall not take effect.

“(ii) TERMINATIONS WITH RESPECT TO WHICH FINAL DISTRIBUTION OF ASSETS HAS COMMENCED.—Clause (i) shall not apply with respect to a termination with respect to which the final distribution of assets has commenced before the date of the enactment of this Act unless, within 90 days after the date of the enactment of this Act, the plan has been restored in accordance with procedures issued by the Corporation pursuant to subsection (c).

“(E) AUTHORITY OF CORPORATION TO EXTEND 90-DAY PERIODS TO PERMIT STANDARD TERMINATION.—The Corporation may, on a case-by-case basis in accordance with subsection (c), provide for extensions of the applicable 90-day period referred to in clause (i) or (ii) of subparagraph (B) if it is demonstrated to the satisfaction of the Corporation that—

“(i) the plan could not otherwise, pursuant to the preceding provisions of this para-

1 graph, terminate in a termination treated as  
2 a standard termination under section 4041(b)  
3 of the Employee Retirement Income Securi-  
4 ty Act of 1974 (as amended by this title),  
5 and  
6 “(ii) the extension would result in a  
7 greater likelihood that benefit commitments  
8 under the plan would be paid in full,  
9 except that any such period may not be so ex-  
10 tended beyond one year after the date of the en-  
11 actment of this Act.”.

Passed the House of Representatives March 20, 1986.

Attest: BENJAMIN J. GUTHRIE,  
*Clerk.*